

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Market Dominant Product Prices
First-Class and Standard Mail
Discover Financial Services

Docket No. MC2011-19

Market Dominant Product Prices
Discover Financial Services (MC2011-19)
Negotiated Service Agreement

Docket No. R2011-3

CHAIRMAN'S INFORMATION REQUEST NO. 3

(Issued March 21, 2013)

On March 8, 2013, the Postal Service gave notice of an Amendment to Negotiated Service Agreement Between the United States Postal Service and Discover Financial Services (Proposed Amendment).¹ In order to assist the Commission in its consideration of the issues raised by the Notice and the Proposed Amendment, the Postal Service is requested to submit written responses to the following questions. Responses should be provided as soon as possible, but no later than March 26, 2013.

1. The Proposed Amendment provides that "the Postal Service and DFS [Discover Financial Services] agree to amend section II.B.5 as follows" but does not provide any amendatory language (e.g. "amend the agreement by striking section II.B.5 and inserting the following" or "amend section II.B.5 by adding at the end the following"). As a consequence, it is not clear whether the parties

¹ Letter from Brandy A. Osimokun, Attorney, Postal Service, to Shoshana M. Grove, Secretary, Postal Regulatory Commission, March 8, 2013 (Notice). The Proposed Amendment is included as an attachment to the Notice.

intend to replace the existing section II.B.5, add language at the end of the existing section II.B.5, or make some other type of change.

- a. Please provide the full text of section II.B.5, as the parties intend for it to read after it is amended by the Proposed Amendment.
 - b. If the parties intend to replace the existing section II.B.5 with the language of the Proposed Amendment, please explain how the Revenue Threshold Adjustment will be calculated under the amended agreement. Please provide a full explanation of the calculation, including, at a minimum, the effect of shifts between DFS Eligible First-Class Mail and DFS Eligible Standard Mail and the effect of shifts between DFS Eligible First-Class Mail and Priority Mail.
2. Please confirm that the parties intend to calculate the revenue from DFS Priority Mail that will be included in the revenue for DFS First-Class Mail for a contract year for purposes of the Revenue Threshold Adjustment by multiplying the volume of DFS Priority Mail by the average per-piece postage rate for DFS First-Class Mail for that contract year. If this is not the case, please explain how the revenue from DFS Priority Mail that will be included in the revenue for DFS First-Class Mail for purposes of the Revenue Threshold Adjustment will be calculated under the Proposed Amendment. Please include an example, using hypothetical volumes and postage rates, with the explanation.
3. The Proposed Amendment asserts that DFS only intends to “upgrade a small portion of its DFS Eligible First-Class Mail to an expedited service.” Notice at 1. However, the Proposed Amendment appears to require that all DFS Priority Mail volume be included in the calculation of revenue for DFS Eligible First-Class Mail.

- a. What portion of DFS Priority Mail volume do the parties intend to include in the calculation of revenue for DFS Eligible First-Class Mail?
 - b. If the parties intend to include all DFS Priority Mail volume in the calculation of revenue for DFS Eligible First-Class Mail, please reconcile that approach with the statement (Notice at 1) that a “small portion” of First-Class Mail volume will shift to Priority Mail.
 - c. If the parties intend to include less than all DFS Priority Mail volume in their calculation of revenue for DFS Eligible First-Class Mail, please explain how the parties intend to determine what that lesser portion will be and why that method is appropriate.
4. No effective date appears to be specified for the Proposed Amendment. Please provide the scheduled effective date for the Proposed Amendment.
5. Please refer to 39 U.S.C. § 3642 and 39 C.F.R. § 3010 subpart D and 3020 subpart B. With reference to these provisions, please explain why it is appropriate to consider volumes of and/or revenues from a competitive product when determining whether an existing market dominant NSA qualifies for a rebate.
6. Please provide proposed language for the MCS to reflect the Proposed Amendment.
7. Please provide proposed revisions to the existing data collection plan designed to measure the effects of the Proposed Amendment.

8. Please provide monthly volumes for DFS Priority Mail for the following periods:
 - a. The baseline year (the 12-month period ending on the implementation date).
 - b. Contract year 1.
 - c. Contract year 2 (to the extent practicable).
9. With reference to the baseline, please explain how the DFS Priority Mail volumes will be identified as representing shifts from DFS First-Class Mail to DFS Priority Mail contemplated by the Proposed Amendment.
10. The Postal Service states its belief that the Proposed Amendment satisfies 39 U.S.C. § 3622(c)(10). See Notice at 2. Please provide the underlying support for this belief.

By the Chairman.

Ruth Y. Goldway